

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-157—sHB 6638

Judiciary Committee

AN ACT CONCERNING JUVENILE JUSTICE

SUMMARY: This act reduces the Department of Children and Families' (DCF) responsibilities for delinquent children by cutting off services at age 20.

It also:

1. gives uniform definitions to "child," "youth," and "delinquent child" in DCF statutes, thus expanding the laws regarding a child to generally cover 16- and 17-year-olds (in some cases excluding emancipated minors);
2. removes crimes related to failure to appear and violations of the conditions of release from the definition of "delinquent child," and related provisions;
3. excludes delinquent acts from the definition of "family violence crimes";
4. adds as serious juvenile offenses (SJO) 1st and 2nd degree strangulation and home invasion, thereby increasing penalties for these offenses;
5. removes 2nd degree hindering prosecution from enumerated SJOs;
6. beginning July 1, 2012, permits 17-year-olds alleged to have committed an offense that is pending on the youthful offender, regular criminal, or any motor vehicle docket on or after that date to have their cases transferred to juvenile court if juvenile programs are available that would more appropriately meet their needs and the youth and community would be better served by the treatment;
7. modifies the standards governing the admissibility of confessions made by 16- and 17-year-olds;
8. eliminates the requirement that DCF plan to keep juveniles sent to the Connecticut Juvenile Training School (CJTS) for at least one year;
9. requires police to notify the superintendent of the district where an arrested student attends school, as an alternative to the district where he or she lives;
10. requires schools to maintain confidentiality about juvenile justice and disciplinary matters that involve students age 16 and 17, not just younger students;
11. mandates that delinquency convictions for evading responsibility with a motor vehicle involving death or serious injury be reported to the Department of Motor Vehicles for the purpose of determining whether administrative sanctions against the child's driver's license are warranted;
12. allows courts to specifically authorize by subsequent court order the further release of confidential records the court has already released to a (a) person with a legitimate interest in the information or (b) crime victim;
13. streamlines the process for CJTS and community detention facilities to get educational records;
14. requires police departments to handle reports of missing 15- to 17-year-

OLR PUBLIC ACT SUMMARY

olds in the same manner as they handle reports involving younger children and vulnerable adults; and

15. cuts off DCF services for children in families with service needs (status offenders) at age 18.

EFFECTIVE DATE: October 1, 2011, except the provisions involving 17-year-olds in delinquency proceedings are effective July 1, 2012.

§§ 4-8, 13, 16, & 17 — ENDING DCF SERVICES AT AGE 20

By law, courts can commit children to DCF's custody in cases of delinquency and Families with Service Needs (status offenses), and when they have intensive behavioral health needs that could not otherwise be met. Under the act, a DCF commitment ends at the earlier of the date (1) a court orders it to expire or (2) the child reaches age 20. If an existing court order goes beyond that age, it is cut off when the individual reaches age 20. Courts are also prohibited from ordering or continuing orders for DCF services beyond that age.

The act also specifies that DCF transfers to the Department of Correction's (DOC) Manson or Niantic facilities end when the offender's commitment ends, as described above, and the DOC jurisdiction over him or her ends simultaneously.

§ 3 — UNIFORM DEFINITIONS

The act incorporates by reference definitions of "child" and "youth" from the delinquency statutes into the general definitions of those terms. The previous general definition of a child was a person under age 16; under the act it is a person under age 18 who has not been emancipated (legally designated an adult). The definition of youth changes from anyone at least age 16 and younger than 19 to an unemancipated 16- or 17-year-old.

§§ 9-12 — DELINQUENT ACTS

The act removes 1st and 2nd degree violations of conditions of release, criminal violation of a protective order, and criminal violation of a standing criminal protective order from the definitions of "delinquent act" and prohibits a court from convicting a child as a delinquent for committing them. It also specifies that from October 1, 2011 to July 1, 2012, if the child is over age 17 delinquent acts do not include (1) failure to appear at delinquency proceedings, (2) violation of a court order in a delinquency proceeding, or (3) probation violations. It extends the Juvenile Court's jurisdiction over people age 18 or older to cases of failure to appear at any court hearing in a delinquency proceeding of which the person received notice. Under prior law, jurisdiction was limited to failing to appear after being released to his or her own custody. For 16- and 17-year-olds, the act also excludes from delinquency definitions failure to appear or pay for an infraction or violation subject to the Centralized Infraction Bureau.

Serious Juvenile Offenses

The act adds 1st and 2nd degree strangulation and home invasion to the list of

OLR PUBLIC ACT SUMMARY

SJOs. It removes from the list 2nd degree hindering prosecution.

By law, SJOs carry an enhanced penalty of up to four years commitment to DCF, with the possibility of an extension. (The commitment period for non-SJOs is up to 18 months with the possibility of an extension.) Also, serious juvenile offenders (1) are prohibited from obtaining gun permits, (2) cannot be released from jail on a promise to appear, (3) are barred from certain court diversion programs, and (4) must keep the juvenile conviction on their record for a longer period than other juvenile offenders.

§ 19 — ADMISSIBILITY OF JUVENILE CONFESSIONS

By law, admissions, confessions, or statements made by a 16-year-old are inadmissible in any related delinquency proceeding unless the (1) police or juvenile court official made reasonable efforts to contact the child's parent or guardian, (2) child was advised that he or she has a right to contact a parent or guardian and have him or her present during the interview, and (3) child was told about his or her *Miranda* rights. Under the act, beginning July 1, 2012, these rules do not apply to admissions, confessions, or statements a 16- or 17-year-old makes to a police officer in connection with a case transferred to the juvenile docket from the youthful offender, regular criminal, or any motor vehicle docket, thus making them admissible in a court proceeding.

The act also makes the same exception for such confessions from the "totality of circumstances" test that ordinarily governs the admissibility of confessions in court proceedings.

§ 20 — DISCLOSURE OF EDUCATIONAL RECORDS TO JUVENILE DETENTION FACILITIES

When a student is being held at CJTS or in a community detention facility, the act requires the local or regional board of education of the town where the student is enrolled, in compliance with federal regulations, to provide the student's educational records to the facility on request and without the parent's written permission. If the records are supplied without parental permission, the school must notify the parent or guardian at the time it releases the records. These records may not be further disclosed without a court order or the written consent of the student's parent or guardian.

The facility can use the records only to provide the detainee with educational services.

BACKGROUND

Totality of Circumstances Test

Under the totality of circumstances test for the admissibility of juvenile confessions, the court considers the child's:

1. age, experience, education, background, and intelligence;
2. capacity to understand advice concerning rights and required warnings;
3. opportunity to speak with a parent, guardian, or some other suitable person

OLR PUBLIC ACT SUMMARY

- before or while making the admission, confession, or statement; and
4. circumstances while making the confession, including (a) when or where the confession was made, (b) the reasonableness of the proceeding, or the need to proceed, without a parent or guardian present, and (c) the reasonableness of efforts by the police or court to attempt to contact a parent or guardian.

Related Act

PA 11-156 also eliminates the requirement that DCF keep juveniles at CJTS for at least one year.

OLR Tracking: SPSN-E:VR:ro